REMARKS - General

Applicants wish to thank Examiner Dixon for correctly

5   interpreting Applicants' intent regarding the non-selected

claims exceeding the Examiner's previously specified limit

of twenty-five (25). Applicants have cancelled without

prejudice or disclaimer all non-selected claims, to wit: 6,

8, 10, 12, 14-24, 26-27, 30-44, 46, 49-53, 55-57, 59, 62-

10   63, 65-66, 68-71, 73-74, 78, 80-82, 84-86, and 88-169.

Claims pending in the action are 4-5, 7, 9, 11, 13,

25, 28-29, 45, 47-48, 54, 58, 60-61, 64, 67, 72, 75-77, 79,

83, and 87.

Claim 9 has been amended to correct a typographic

15   error.

Claims 29, 48, 64, 72, 75, 76, and 77 have been

amended to more particularly point out and distinctly claim

the subject matter of the present invention. Of these,

Claims 48, 64, 72, 75, and 77 have been amended so that

20   steps are designated by consecutive alphabetic letters.

Claims 72 and 76 have been amended to provide an

antecedent basis for 'directed demand'. The term 'directed

demand' was originally defined in paragraph 0067 of the

specification:

25   "Directed demand" is the number of visitors

directed to an attraction by the itineraries

produced by this invention. It includes the fact

that an itinerary is generated for a party, and

that a party may consist of multiple visitors.

30   Claim 77 has been amended to refer to the sets of

messages as first and second (rather than third and fourth

sets), but to retain the distinction between the sets of messages and sets of attractions.

CLAIMS STATING ALLOWABLE SUBJECT MATTER

Claim 11 was objected to as being dependent upon a rejected base claim. Claim 11, has been amended to stand in independent form.

Accordingly, Applicants submit that this claim is in an acceptable form and therefore should be allowed.

REJECTION UNDER 102(b) ON WAYTENA et al IS OVERCOME

Claims 4, 5, 7, 9, 13, 25, 28, 29, 45, 47, 48, 54, 60, 61, 64, 67, 72, 75, 77, 79, 83, and 87 were rejected under 35 U.S.C. 102(b) as being anticipated by Waytena et al (5,978,770).

In '770, Waytena et al provide "a system and method for assigning and managing patron reservations to one or more of a plurality of attractions..." (from the abstract).

The '770 patent is familiar to Applicants as the parent application of Waytena et al (6,748,364), which was cited in Applicant's Information Disclosure Statement. Based on a brief inspection of the two specifications by Applicants and relying on the representation by Waytena et al by their reuse of the declaration from the '770 patent application in the '364 filing, the '364 patent cited by Applicants contains no matter that would have been new matter in the prior '770 application, per 37 CFR 1.63(d)(1)(iii).

As per Claim 4:

In '770 (and '364), Waytena et al teach three distinct sets of attractions:

    a) the set of all attractions known to the system;

    b) a set consisting of attractions selected

5   manually by patron's from the set a); and,

    c) a set of attractions for which reservations are obtained.

Requiring the patron to create set b) was previously taught by Mahoney et al in 5,502,806, as pointed out by

10   Applicants in the present application, paragraph 0018, as were the disadvantages of such systems in paragraphs 0021, 0024, and 0025. In 5,940,803, also discussed by Applicants in paragraph 0033, Kanemitsu teaches the same requirement and suffers the same disadvantages.

15   In '770, "a plurality of attraction computers 101 is provided, each associated with a particular attraction." ('770 col 5, ln 4-5) This is the '770 representation of set a). "Attraction computer 101 contains...attraction information storage 213..." ('770 col 9, ln 63-66) and

20   "Attraction information storage 213 maintains current information describing the particular attraction associated with attraction computer 101" ('770 col 11, ln 18-20). Figure 2E of '770, "a diagram of a sample attraction information record" (col 4, ln 24-25) shows the detail of

25   attraction information storage 213. The Examiner asserts that Figure 2E corresponds to the "data regarding said first set of attractions" (Applicants' independent Claims 4 and 87). Applicants agree.

Likewise, Applicants agree that Waytena et al teach

30   gathering information about a party.

However, Waytena et al do not even suggest that such

data about the party is capable of distinguishing among
said first set of attractions adequately to provide an
itinerary. Rather, '770 repeats the same requirement and
suffers the above referenced limitations of Kanemitsu and
5   Mahoney et al. Waytena et al insist in '770, as did their
predecessors Kanemitsu and Mahoney et al, that the patron
must perform the selection of attractions. It is this
selection which forms set b), above. When idle, the user
interface of '770 "presents...a scrollable and/or pageable
10   list 541 of available attractions, buttons 542 and 543 for
obtaining information or generating reservation requests
for selected attractions..." ('770 col 14, ln 13-17).
Waytena et al recognize that set a) will generally be a
long one!
15   Set b) has no correspondence in the present invention,
and is antithetical to its purpose: "This invention also
makes it possible for visitors unfamiliar with a facility
to make meaningful use of a queue management system as in
Murphey et al., or any of the itinerary making systems
20   otherwise described. These normally require the user to
enter or select explicitly each attraction that they wish
to visit" (present application, paragraph 0072).
Specifically, it is the function of the present invention
to proceed from set a), the list of all attractions, to the
25   itinerary comprising set c) without requiring the
intermediate step of manual selection of set b) by the
patron. Mahoney, Kanemitsu, and Waytena and their
respective et al specifically teach against this. Waytena
et al explicitly and repeatedly teach that a requirement of
30   their invention is "input from the patron requesting a
reservation for a particular attraction." ('770, col 3, ln

11-12) "First, the patron requests 302 a reservation..."
('770, col 12, ln 25-27) and if the request cannot be
granted, the "patron may then enter a new request, or
modify the existing request." (col 15, ln 45-46)

5   Both of Applicants' independent Claims 4 and 87
provide "software operable to select said second set of
attractions from said first set of attractions" whereas
'selection' is a manual step in Waytena et al, Kanemitsu,
and Mahoney et al.

10   Both of Applicants' independent Claims 4 and 87,
conclude with a "whereby" clause to particularly point out
the function of the invention: "whereby said itinerary is
customized for said party." The systems and methods taught
by Waytena et al defeat the central purpose of the present
15   invention: a manually selected list of attraction requests
pre-achieves the particularly stated function of the
claims: to customize the itinerary. Customization in '770
is performed by the patron as he "selects one of the
attractions in [the] list" (col 14 ln 36). The '770
20   invention accepts or rejects the requested customization.
This is clearly shown in '770 Figure 3, where the patron
request is made in step 302 and potentially rejected in
each of decision steps 304, 309, and 313.

As per claim 5:

25   Waytena et al do disclose preferences of the party
being captured. However, the only use '770 offers for
these preferences once collected is to narrow the list of
attractions from which the patron must select (col 14, ln
20-24). Though '770 is allowing the patron to filter the
30   available choices based on preferences, customization and
creation of an itinerary must still be made manually by the

patron before being validated by filtering module 203.   The filtering module 203 makes no use of the collected preferences for the purpose of evaluation.

As per Claim 7:

5   Claim 7 requires the attributes to be used by the software in step d) as the software selects the second set of attractions. "Age 221, height 223, weight 224, and flags 225 are used by filtering module 203 to determine validity of reservation requests." (col 7, ln 29-31) Waytena does

10   not teach use of party attributes to select attractions...that remains the domain of the patron.

As per Claim 9:

Claim 9 prescribes that an aversion attribute is used to exclude an attraction from selection for the second set

15   of attractions. Per Waytena, all filtering, which is the use to which party attributes are put, occurs after the selection has been performed by the patron. "The module 203 preferably informs the user when a request is determined to be invalid." (col 8, ln 43-45) Thus,

20   Waytena's use of aversion attributes does not exclude an attraction from being selected.

As per Claim 13:

Waytena does not refer to privileges of the party that distinguish between attractions. The Examiner has pointed

25   to '770, col 20, ln 51-55, as an incidence of such privilege in Waytena. However, rather than a privilege, this section instead describes a way of estimating the likelihood of a reservation being kept. This has no bearing on whether or not an attraction is selected, nor

30   whether a reservation can be accepted. Here Waytena is seeking to eek out a slightly higher performance from his

system by estimating a safe amount of overbooking. Waytena
does not teach a privilege of a party affecting the
desirability of attractions for inclusion in the itinerary.

As per Claim 25:

5   Claim 25 calls for a scheduled time to be provided for
an attraction when the attraction is selected by the
software. Waytena requires the patron to select not only
the attraction, but also the time: "The request may specify
a particular time of day that the patron is interested in,
10   or it may simply request the next available time for
attending the attraction." (col 12, ln 27-29) However, if
the Waytena's patron selects "next available time" when
selecting an attraction and requesting a reservation, the
software may calculate a time based a virtual queue,
15   throughput and cycle time values. (col 20, ln 60-64) This
is similar to the mechanism employed by Laval et al in
6,173,209 and mentioned in Applicants' paragraph 0017. In
neither case, however, does the prior art suggest that the
software is able to select both the attraction and the time
20   without the patrons performing the attraction selection.

As per Claim 28:

It is in the complex situation of attempting to
reunite multiple parties of a group, each party following a
separate itinerary, where Applicants' invention is
25   particularly advantaged over the Waytena.

Though Waytena's invention "provides a mechanism for
the patron to indicate, if desired, which members of the
patron's party are to be included in the reservation" (col
14, ln 49-51) and "may also ensure that no conflicting
30   reservations have been made" (col 15, ln 45-46), the
primary utility is for particular members of the party to

gain a reservation for an attraction that might be denied
when the system checks "that members of the group are of
sufficient age and height to enjoy the selected
attraction..." (col 15, ln 30-32) The burden placed on the

5   patron operating the '770 system for this group is
significant: The manual process of selecting an
attraction, requesting a reservation and identifying
members of the first party of the group, getting that
reservation approved; followed by selecting a different

10   attraction, requesting a reservation and identifying the
remaining members of the group, getting that reservation
approved (or upon being denied the request reservation,
specifying an alternate one and getting that approved...
and so on until the patron has assembled an itinerary by

15   performing manual selections and requests for each party
within the group, and finally having to select an
attraction and gain a reservation for the entire group.
       The patron experiences a far different and simpler
process when the software of the present invention in step

20   d) performs the task of selecting the attractions for the
itinerary and also ensures that the desired regrouping
occurs.
       As per Claim 29:
       In the placed cited by the Examiner (col 23, ln 3-24),

25   Waytena provides a way to will grant or deny a reservation
requested for a selected attraction at a selected time.
The same process may propose a time for a reservation
request for a selected attraction, if no specific time is
selected. Further, Waytena provides that travel time is

30   included in the granted, denied, or proposed times.
       What Waytena does not teach is software that performs

the selection of both an attraction and a corresponding
time for incorporation into an itinerary, which is the
subject matter of Applicants' Claim 29.

As per Claim 45:

Since the invention of '770 does not select
attractions (the selection is up to the patron), there is
no mechanism proposed by Waytena et al to select
replacement attractions that substantially avoid
attractions already visited, per Applicants' Claim 45.
What Waytena does teach is that once a selection has been
made by the patron and a reservation granted by the '770
invention, that delays or other trouble can cause the
granted reservation to be cancelled and possibly replaced
with a new proposed reservation, but the attraction
selection does not change. (col 11, ln 1-25)

As per Claim 47:

Applicants do not dispute that rides and shows are
well-known kinds of attractions suitable for inclusion in
itineraries generated by the present invention.
Acceptability of this dependent claim is entirely reliant
on the acceptability of the independent parent claim.

As per Claim 48:

Waytena does not teach any interaction of the '770
invention with access control systems. The section cited
by the Examiner (col 19, ln 9-19) describe a mechanism to
inform the '770 invention that a reservation has been kept.
It does not relate to any mechanism or process for denying
entry to an attraction on the basis of the itinerary.

As per Claim 54:

Applicants do not dispute that a hand-held computer is
a well-known kind of computer suited to executing the

software necessary for the present invention.
Acceptability of this dependent claim is entirely reliant
on the acceptability of the independent parent claim.

As per Claim 60:

5   Applicants do not dispute that a "touch-sensitive
screen 109 (col 6, ln 66) is a well-known kind of display
suited to displaying the itinerary of the present
invention. Acceptability of this dependent claim is
entirely reliant on the acceptability of the independent

10   parent claim.

As per Claim 61:

The Examiner has interpreted "auxiliary output device
110 such as audio speaker or vibration mechanism" (col 5,
ln 65-66) as meeting the needs of Applicants' paragraph

15   0261: "The next event indicated on an itinerary form 400 by
next event banner 420, might instead be announced audibly
in the language of the party's preference," to which Claim
61 is drawn, requiring "at least a portion of said
itinerary is announced audibly by said presentation means."

20   Even with the explicit teaching of Waytena et al that "The
reservation alert issued by module 204 may take the form of
a visual indication on user interface 201, optionally
accompanied by an auditory indication such as a beep, voice
message, or other distinctive sound," (col 18, ln 59-62)

25   Applicants' argue that an "auditory indication," even one
in the form of a voice message, is not the same as "the
next event indicated on an itinerary...might instead be
announced audibly in the language of the party's
preference" (paragraph 0261).

30   As per Claim 64:

Waytena et al teach that an indication from a

reservation computer that an attraction is unavailable
removes the attraction from the itinerary. However,
Waytena does not teach that such an indication can prevent
the patron from wasting time attempting at least one

5   reservation request before the patron is informed that the
attraction is not available. See in '770 Figure 7 that
manual request is received at 702, necessarily in advance
of rejection at 722. Applicants' Claim 64 provides that
the software operating in step d) performs the selection of

10   attractions for the itinerary informed by the reservation
computer whether attempted reservation requests were
denied.

As per Claim 67:

Waytena teaches (at col 20, ln 57-64, pointed out by

15   Examiner) that an empirical measurement of patrons not
utilizing reservations is a basis for overbooking
reservations for an attraction. At col 22, ln 36-67,
Waytena et al describe a calculation that affects the
demand on an attraction by increasing or decreasing an

20   'interleave ratio'. However, Waytena's interleave ratio
has no effect on the likelihood that an attraction is
selected. The interleave ratio moderates demand for an
attraction having a certain probability of being selected
by only permitting a certain number of reservations per

25   time period. Since the probability of being selected is
not reduced, reservations are made at the same rate,
regardless of the interleave ratio, until the attraction
has no more time slots available, at which point no further
attraction reservations are granted. However, even then,

30   the probability that a patron will select an attraction is
unchanged. This is the effect predicted by Applicants in

paragraph 0025: "With such an imbalance of demand, the system of Mahoney et al. will fail as late arriving visitors find that there are no reservations available for any of the `E` attractions, or even `D`s."

5 Instead, Applicants teach that "One preferable method for preventing this capacity overrun is to attenuate the rating of that attraction [having excessive demand] by a factor sufficient to reduce the anticipated itinerary demand to an amount such that the allocated capacity should

10 be sufficient. By statistically lowering the likelihood of an attraction to be selected for inclusion in an itinerary, the directed demand can be moderated." (paragraph 0069). Applicants' Claim 67 alleviates the problem of no reservations available for late-arriving visitors.

15 As per Claim 72:

Applicants do not dispute that a storage for accumulation of reservations for an attraction is well-known. However, to track specifically the portion of the demand for an attraction that is produced by the itinerary

20 generation process (the 'directed demand') can provide valuable feedback for control of the itinerary generating process itself, and other integrated reservation making systems. These additional refinements rely on the tracking of directed demand an are elaborated in now-cancelled

25 Claims 73 and 74 and described in paragraph 0258.

  As per Claim 75:

Waytena enables patrons to select attractions and request reservations (see '770, Figure 5, 503-505; Figure 6, 603-605) for those attractions selected. In the present

30 invention, the software provided is operable to select attractions itself, and make reservations.

As per Claim 77:

The Examiner is misinterpreting window 561 which "provides descriptions and pictures of the attraction" ('770, col 14, ln 45) as a marketing message or
5   recommendation. Waytena et al explicitly state that "descriptions of the various attractions in the park, stored in attraction description storage 205" ('770 col 7, ln 52-53). "Attraction description storage 205" of Waytena et al clearly corresponds to Applicants' "data regarding
10   said first set of attractions". In Waytena, however, the description of the attraction must be provided in advance of the itinerary generation, to inform the patron of the choices he must make. In Applicants' invention, such descriptions are associated with the resulting itinerary so
15   that patrons can understand the attractions that have already been selected. Entirely distinct is the role of marketing messages, discount offers, and recommendations (described by Applicants in paragraph 0257).

As per Claim 79:

20   Insofar as the '770 invention does not perform Applicants' step d) of the parent claim of Claim 79, that is, Waytena et al do not teach that software performs the selection of attractions for the itinerary, the '770 filtering module 203 does not represent a decision making
25   routine to perform the function that Applicants claim in Claim 79.

Applicants do not dispute that Waytena's decision tree shown in '770 Figure 3 represents a decision making routine for implementing the '770 invention. However, as Waytena
30   explains, "there is shown a flowchart of the overall operation of system 100 in processing a reservation request

from a patron." (col 12, ln 20) This does not anticipate Applicants' invention.

As per Claim 83:

Applicants do not dispute that such data as operating hours, cycle capacity, estimated throughput, today's throughput, and at least some of the data mentioned in the group enumerated in Claim 83 are well-known to represent attractions for the purpose of various management formulae. Applicants maintain that their invention uses such well-known kinds of data regarding attractions to achieve the goals described in the current application. Acceptability of this dependent claim is entirely reliant on the acceptability of the independent parent claim.

As per Claim 87:

Applicants point out that the discussion above with respect to method Claim 4 also applies to this independent apparatus claim.

In particular, Waytena et al do not teach "computer having software operable to select said second set of attractions from said first set of attractions." Instead, the '770 invention relies on a human patron to make that selection, in the form of a reservation request, which the '770 software accepts or rejects. Again (in '770, col 12, ln 18-20), "there is shown a flowchart of the overall operation of system 100 in processing a reservation request from a patron," and "The patron selects one of the attractions." (col 14, ln 37).

MURASHITA et al AND LANCOS et al DO NOT CONSTITUTE PRIOR ART

Claims 58 and 76 were rejected under 35 U.S.C. 103(a) in view of at least, Lancos et al (6,873,260) and Murashita et al (2002/0062236), respectively.

Each of these references was first filed within one
5   year of the filing date of the present application.

The MPEP 2141.01 provides a citation which reads:

> Subject matter that is prior art under 35 U.S.C. 102 can be used to support a rejection under section 103. Ex parte Andresen, 212 USPQ 100, 102
10   (Bd. Pat. App. & Inter. 1981) ("it appears to us that the commentator [of 35 U.S.C.A.] and the [congressional] committee viewed section 103 as including all of the various bars to a patent as set forth in section 102.").

15   According to the current version of 35 U.S.C. 102e:

> (e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent
20   or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall
25   have the effects for the purposes of this subsection of an application filed in the United under Article 21(2) of such treaty in the English language.

The present application was filed May 15, 2001. Thus,
30   to stand as prior art under 35 U.S.C. 102(e) and thus support a 35 U.S.C. 103(a) rejection, a prior art

application for patent must have a publication date prior
to May 15, 2001.

Lancos et al was first published, according to USPTO
records, on June 27, 2002 and thus does not constitute

5   prior art for the present application.

Murashita et al claims priority based on a foreign
application (JP 2002/356555) for which an application for
United States patent was filed on November 22, 2000.
References based on international patent applications filed

10   prior to November 29, 2000 are subject to the former (pre-
AIPA) version of 35 U.S.C. 102(e):

> (e) the invention was described in a patent
> granted on an application for patent by another
> filed in the United States before the invention

15 > thereof by the applicant for patent, or on an
> international application by another who has
> fulfilled the requirements of paragraphs (1),
> (2), and (4) of section 371(c) of this title
> before the invention thereof by the applicant for

20 > patent.

Insofar as Murashita et al is still a patent
application and was not an issued patent at the time the
present application was filed, Murashita et al does not
constitute prior art to the present application.

25

REJECTIONS UNDER 103(a) USING WAYTENA et al AND LAVAL et al
ARE OVERCOME

Claim 58 was rejected under 35 U.S.C. 103(a) as

30   obvious in light of Waytena et al ('770) in view of Laval
(6,173,209) or other applications for patent.

As per Claim 58:

The only references to tickets by Watena et al is in the location identified by the Examiner (col 1, ln 58-61), in which a deli's 'take a number' dispenser is used to

5   illustrate a prior art queue management technique. Waytena then goes on to say, "Systems such as these are impractical when applied to amusement parks, given the large number of attractions, the vast number of patrons, and the geographic dispersion of the park." (col 1, ln 65 — col 2, ln 1)

10   Thus, in their only reference to the use of tickets, Waytena et al explicitly teach against their use in such an application and environment.

Also, the only reference to printing of any sort by Waytena et al is that park staff may request reports and

15   that such reports might be displayed or printed. ('770 col 22, ln 15-22) This represents a further teaching that printing of tickets or itineraries for patrons is not appropriate, though the printing of reports for park staff is reasonable. This is not surprising in the light of the

20   abstract accompanying the '770 invention, wherein all reservation-related transactions (requests, proposals, rejections, confirmations, and reminders) all take place through the "personal communication device" (PCD).

In '209, Laval et al teach a system that allow a

25   "customer to receive an assigned time in the future for accessing the attraction" and "a media distributor for distributing a media to an entitled customer, the media including the assigned time" (abstract). In this, Laval et al follow the rest of the prior art: the selection of which

30   attraction for which a reservation is sought is a selection made by the patron. ('209, col 5, ln 28-29)

Thus, taken as a whole, the combination of Waytena and Laval is taught against by the references with respect to the presentation means comprising a printer in Claim 58. Further, this combination of references does not anticipate

5   Claim 4, as both references require that the selection of an attraction for which a reservation is sought to be made not by software (as Applicants claim as their invention), but by the patron.

10   NON-APPLIED REFERENCES

Applicants have reviewed the prior art made of record and considered pertinent. However, neither alone nor in combination do these references disclose or render obvious

15   Applicants' claimed invention.

Conclusion

For all of the above reasons, Applicants submit that

20   the pending claims are now in proper form, and that the pending claims all define patentably over the prior art. Therefore, they submit that this application is now in condition for allowance, which action they respectfully solicit.

25

Conditional Request for Constructive Assistance

Applicants believe the claims of this application are in proper form, definite, and define novel structure which

30   is also unobvious. If, for any reason this application is not believed to be in full condition for allowance,

applicants respectfully request the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 2173.02 an § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as

5   possible and without the need for further proceedings.

                       Very respectfully,

10   William Gibbens Redmann   Michael Anthony Eaton

             --------- Applicants Pro Se ---------

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2006 July 28   _____

                     William G. Redmann, Applicant

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